

JOHN L. WEICHSEL  
JLW 3958  
225 Broadway, Suite 700  
New York, NY 10036  
212 925 7881

and

79 Main St.  
Hackensack, NJ 07601  
201 488 1400  
201 488 3970 (Fax)  
[john.weichsel@verizon.net](mailto:john.weichsel@verizon.net)

**Attorney for Defendant**

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

X

**CASE NO. 08 CV. 3448(WHP)**

**TRUSTEES of the MASON TENDERS  
DISTRICT COUNCIL WELFARE FUND,  
PENSION FUND, ANNUITY FUND and  
TRAINING PROGRAM FUND**

**Plaintiff**  
**-against-**

**ANSWER AND SEPARATE  
DEFENSES**

**PRIME ENVIRONMENTAL SERVICES, INC.**

**Defendant**

X

Defendant, Prime Environmental Services, Inc, by way of answer to plaintiff's complaint, says:

1. Defendant neither admits nor denies the allegations contained in paragraphs 1 through 5 of the complaint, but leaves plaintiff to its proofs.
2. Defendant admits the allegations contained in paragraphs 6 and 7.
3. Defendant neither admits nor denies the allegations contained in paragraphs 8 through 12 of the complaint, but leaves

plaintiff to its proofs.

4. As to paragraphs 13, 14 and 15 of the complaint defendant admits that there was work performed and monies due to the Fund but denies that the amounts were as stated in the complaint. Prime believes that a correct audit will show that the amounts due are less than stated in paragraphs 13, 14 and 15.

5. Defendant denies the allegations contained in paragraphs 16 and 17

6. Defendant repeats and realleges its answers to Paragraphs 1 through 17 of the complaint as if set forth herein at length.

7. As to paragraphs 19, 20, 21, 22 and 23 of the complaint defendant admits that there exist dues checkoffs and PAC contributions but denies the amounts stated in the complaint. Prime believes that a correct audit will show that the amounts due are less than stated in paragraphs 19 through 23.

8. Defendant repeats and realleges its answers to Paragraphs 1 through 23 of the complaint as if set forth herein at length.

9. As to paragraphs 25 through 27 defendant admits a duty to cooperate and has repeatedly requested the Fund to perform an audit.

10. Defendant repeats and realleges its answers to Paragraphs 1 through 27 of the complaint as if set forth herein at length.

11. Defendant denies the allegations of paragraphs 29 through 33 of the complaint.

12. Defendant repeats and realleges its answers to Paragraphs 1 through 33 of the complaint as if set forth herein at length.

13. Defendant denies the allegations of paragraphs 35 through 39 of the complaint

**SEPARATE DEFENSES**

**FIRST:** The action of plaintiff is barred by the statute of limitations.

**SECOND:** Plaintiff is guilty of contributory negligence and the negligence of plaintiff is greater than that of answering defendant; therefore, plaintiff is barred from recovery.

**THIRD:** The complaint fails to state a claim upon which relief can be granted as against the answering defendant

**FOURTH** The answering defendant reserves the right to amend this answer to assert additional defenses and to make further admissions upon completion of further investigation and discovery.

**WHEREFORE**, defendant demands judgment against plaintiff dismissing the complaint, together with interest, costs of suit, attorneys fees, and such other and further relief as the court deems just and equitable.

DATED:may 29, 2008  
New York, New York

Yours, etc.

/s/ John Weichsel

JOHN L. WEICHSEL, ESQ.  
JLW - 3958  
Attorney for Defendant  
225 Broadway, Suite 1009  
New York, NY 10007  
(212) 925-7881  
-and-  
79 Main Street  
Hackensack, NJ 07601  
(201) 488-1400  
John.weichsel@verizon.net

TO: PROSKAUER ROSE LLP  
Sally L. Schneider

1585 Broadway  
New York, NY 10036  
Attorney for Plaintiff